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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,000	12/15/2003	James R. Fischer	4741-00010	2976
26753	7590	12/28/2005		
ANDRUS, SCEALES, STARKE & SAWALL, LLP 100 EAST WISCONSIN AVENUE, SUITE 1100 MILWAUKEE, WI 53202			EXAMINER DOOLEY, JAMES C	
			ART UNIT	PAPER NUMBER
			3634	
DATE MAILED: 12/28/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/736,000	Applicant(s) FISCHER, JAMES R.	
	Examiner James C. Dooley	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-20 is/are pending in the application.
- 4a) Of the above claim(s) 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/01/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is mailed in response to Applicant's election filed 11/14/2005, wherein Applicant elected claims 1-5, and 7-20.

Election/Restrictions

Applicant's election of claims 1-5, and 7-20 in the reply filed on 11/14/2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim 6 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 11/17/2005.

Abstract

"The present invention pertains to a" in line 1 should be changed to --A-- since the abstract should not contain phrases which can be implied.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In line 16 the slatwall sections are described as "adapted for

Art Unit: 3634

rigid securement... to form adjacent slatwall sections." In line 19 the slatwall sections are claimed as "longitudinally engaging." It is unclear whether the engagement is positively or functionally claimed.

In line 25 of claim 1 applicant claims an "additional uniform slot," no other uniform slots have been set forth.

The term "narrow" and "wider" in claim 1 lines 25 and 26 are a relative terms which render the claim indefinite. These terms can only be used with reference to each other such as, --an outer portion wider than the inner portion--. (see also claim 18)

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In line 3 the reference of "said slot" is unclear. An elongated slot line 15 and a uniform slot line 25 have been presented in claim 1.

Claims 2, 5, and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Hangers are recited as functional elements in the preamble of claims 1, 12, and 18. Claim 2 describes a bracket fixed to the hanger. Claims 5 and 15 describe a load supported by the hanger. These claims are unclear for failing to specifically claim the subject matter of the invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 7-8, 10-13, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Vlah et al. (US 5,944,203). Vlah et al. disclose a slatwall assembly featuring:

- a. A plurality of slatwall sections (10)
- b. A continuous rear wall (11)
- c. Each section having an upper and lower board (Fig. 6)
- d. Internal spacer segments between boards (12)
- e. External spacer segments (13)
- f. Board has: top (14), front (16), rear (18), bottom (17)
- g. Securement to supporting surface (30)
- h. Adjacent boards engage with groove connector (21)
- i. Hangers include bracket with offset upper portion (B)
- j. Hanger bracket lower section engages front wall (16, Fig. 7)
- k. Lip is double walled (Fig. 6, formed by front 16 and rear 18)
- l. Chamber is web free (Fig. 6)
- m. L-shaped slots extend continuously (Fig. 1)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vlah et al. alone. Vlah et al. disclose a slatwall assembly as described above. Vlah et al. does not disclose the assembly to made from plastic. Plastic is a commonly used in the construction of racks. Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to use plastic to make the rack of Vlah et al. The motivation would be to reduce costs.

Claims 4-5, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vlah et al. as applied to claims 1-3, 7-8, 10-13, 16, and 18-20 above, and further in view of Cygan (US 3,045,961). Vlah et al. disclose a slat wall assembly having the features listed above. Vlah et al. do not disclose the possibility of making this assembly from high impact polystyrene. Cygan teaches a slatwall assembly constructed from high impact polystyrene (col. 3 lines 9-29). It is clear that the hanger (5) of Cygan would be able to hold 25 lbs 1 foot from the front of the rack. Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention use high impact polystyrene in the construction of the rack as described by Vlah et al. The motivation to use HIPS would be to reduce the cost of the rack.

Regarding the dimension listed in claims 5 and 15. The boards of Vlah et al. appear to be spaced by approximately three inches and the rear panel appears to have a thickness of about 1/16 of an inch. Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to space the boards at any desired increments and make the rear panel of any desired thickness. The motivation would be to optimize the rack for a desired purpose. Applicant is referred to *In re Aller*, wherein it is stated "it is not inventive to discover the optimum or workable ranges by routine experimentation" (220F.2d 454, 456, 105 USPQ 233, 235).

Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vlah et al. alone. Vlah et al. disclose each channel section to include two board members. Vlah et al. does not teach away from including more than two board members. Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to include as many board sections on each channel as the material permits. The motivation to include more than two boards on each channel section would be to reduce assembly time.

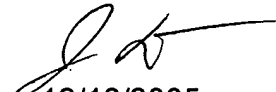
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C. Dooley whose telephone number is 571-2721679. The examiner can normally be reached on M-F 9-5:30.

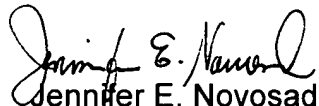
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3634

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



12/16/2005



Jennifer E. Novosad
Primary Examiner
Art Unit 3634